

# Labor Law Matters in the French COVID-19 Emergency Bill

Coronavirus/COVID-19 Update

If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

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**Philippe Despres**

Of Counsel / Paris  
33.1.55.27.11.56  
philippe.despres@skadden.com

**Nicolas Etcheparre**

Associate / Paris  
33.1.55.27.11.46  
nicolas.etcheparre@skadden.com

**Carine Louyot**

Associate / Paris  
33.1.55.27.61.04  
carine.louyot@skadden.com

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One Manhattan West  
New York, NY 10001  
212.735.3000

68, rue du Faubourg Saint-Honoré  
75008 Paris, France  
33.1.55.27.11.00

In anticipation of a potential economic slowdown resulting from the lockdown announced by the French government on March 16, 2020, the French Parliament approved an emergency law on March 22, 2020, called the “Emergency Bill To Combat the COVID-19 Crisis” (the Law).

The Law contains various measures aimed at helping companies to deal with the economic, financial and social impacts of the spread of the virus, with a particular focus on preventing and limiting the cessation of business activity and its consequences for employment. The Law takes a broad approach, authorizing the government to take different measures via ordinances within three months of the Law’s publication. The first drafts of the ordinances will be discussed during a ministerial council on March 25, 2020.

The government chose this legislative process as the ordinances themselves will not be discussed before the Senate or the Parliament, thus allowing the government to act more swiftly. Therefore, the Law does not contain any actionable provisions but gives strong indications as to which economic measures will be taken.

## Measures Aimed at Facilitating and Adapting the Use of Temporary Lay-Off

The Law provides that the government will be able to adopt ordinances regarding the specifics of temporary lay-off (TLO). The Law gives power to the government to address technical questions regarding TLO, such as the social and tax treatment of the indemnity paid to employees, and provides that the government will be able to pass ordinances allowing employers to consult works councils on a TLO *after* filing a request with the French administration instead of before filing such a request, as is currently required.

The reforms regarding the economic aspects of TLO, in particular the increase in the amount of the subsidy paid to employers, as well as the possibility of extending partial TLO to employees whose working time is computed in days or hours on an annual basis, will be covered in a separate decree.

## Measures Concerning the Imposition or Modification of Paid Leave

The Law provides that ordinances can be adopted to allow employers to impose or modify the dates of their employees’ paid leave, under the condition that a collective bargaining agreement be passed with unions on this issue and any imposition or modification thereof is limited to a maximum of six days.

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The Law further provides that ordinances can be adopted to give companies the right to unilaterally impose or modify the dates of reduced working hours or rest days allocated to the employee's time-saving account, or to impose the dates on which employees use them.

## **Measures Relating to Supplementary Compensation for Employees on Sick Leave**

The upcoming ordinances also will be able to modify the conditions under which employers will have to pay any supplemental remuneration to employees who are on sick leave and benefit from Social Security indemnification, which might be required by applicable collective bargaining agreements.

## **Measures Relating to Working Hours**

For companies in "sectors particularly necessary for the security of the Nation and the continuity of economic life", derogations from the legal or conventional rules on working hours, weekly rest and Sunday rest may be introduced. The measures adopted by ordinance will comply with the European maximum limit of 48 hours of work per week.

## **Measures Relating to the Payment of Profit-Sharing Bonuses**

Ordinances may modify and postpone the timing and terms of payment of incentive and profit-sharing bonuses for the year 2019, which are usually paid in April of the following year. This measure will allow a temporary increase in treasury funds for employers.

## **Measures Relating to Very Small Businesses**

For very small businesses whose activity is affected, a postponement of the payment of rent, water, gas and electricity bills relating to business premises, coupled with a waiver of financial penalties, interruptions or reductions in supplies, may be established by ordinance.